

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Harry Eugene Flynn, Robert O. Martin, and Charles A. Natalie
Serial No.: 10/670,981
Title: CHANGING FLUID FLOW DIRECTION
Filing Date: September 25, 2003
Examiner: James M. Hewitt
Art Unit: 3679
Conf. No.: 8092
Docket No: TRX06-01(1097)

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REPLY TO NOTIFICATION OF NON-COMPLIANT APPEAL BRIEF

Sir:

This paper responds to the Notification of Non-Compliant Appeal Brief mailed from the United States Patent and Trademark Office ("USPTO") on October 25, 2007 ("current Office Action"). Applicants hereby petition for any extension of time which is required to maintain the pendency of this case. If necessary, please apply any additional necessary fees, or credit any overpayments, to Deposit Account No. 50-3735.

REMARKS

Applicants have carefully reviewed and considered the current Office Action. Applicants contend that the Appeal Brief is compliant with 37 CFR §41.37 ("the Rule"). The Rule requires:

A concise explanation of the subject matter defined in each of the independent claims involved in the appeal, which shall refer to the specification by page and line number, and to the drawing, if any, by reference characters.

The Rule does not require, nor does the MPEP recommend, that the Summary should not include any other language than that of the subject matter defined in each of the independent claims as was requested by the Examiner in the Notification of Non-Compliant Brief mailed from the USPTO on December 29, 2006 ("Notification 1"). The Rule does not require, nor does the MPEP recommend, that the language of each of the independent claims to be recited as was requested by the Examiner in Notification 1. Instead, the Rule requires a "*concise explanation* of the subject matter defined in each of the independent claims" (Emphasis added).

The Appellants' Amended Brief on Appeal filed on January 25, 2007, was apparently accepted as compliant as no Notification of Non-Compliance was mailed. In responding to a Non-Final Rejection mailed from the USPTO on June 5, 2007, the Applicants submitted the Appeal Brief in its current state on July 24, 2007.

Applicants thank the Examiner for the courtesy of a telephone interview on November 26, 2007. In this interview, the Examiner explained that the order to mail the current Office Action was issued by Appeals Practice Specialist Meredith Petravick.

Applicants thank Ms. Petravick for the courtesy of a telephone interview on November 26, 2007. In this interview, Ms. Petravick graciously explained that the Board of Patent Appeals and Interferences ("BPAI") has requirements for the form of Appeal Briefs. Ms. Petravick also explained that the BPAI has not made these requirements public. After discussing the issue with Ms. Petravick, Ms. Petravick indicated that she would withdraw the Notification of Non-Compliant Appeal Brief.

CONCLUSION

Applicants respectfully submit that the Appeal Brief, as amended herein, is compliant with 37 CFR §41.37. If the Examiner believes that a telephone conversation with the Applicants' representative would facilitate prosecution of this application in any way, the Examiner is cordially invited to telephone the undersigned at (508) 616-9660. If necessary, please apply any additional fees, or credit overpayments, to Deposit Account 50-3735.

Respectfully submitted,

Date: November 26, 2007

/Stanley Hill/

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